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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:	Examiner: PRIETO, BEATRIZ
BLOCK ET. AL.	Art Unit: 2142
Application No.: 09/513,015	Confirmation No.: 7018
Filed: February 25, 2000	Atty. Docket No.: SUNMP576
For: METHOD AND APPARATUS FOR MAKING A COMPUTATIONAL SERVICE HIGHLY AVAILABLE	Date: September 28, 2006

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on September 28, 2006.

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Sylvia Castillo

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APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. § 41.41

Dear Sir:

Applicants submit this paper in response to the Examiner's Answer mailed July 28, 2006, the two-month period for reply extends to September 28, 2006. Accordingly, this reply is believed to be proper.

I. REPLY

A. Independent Claim 1 Is Not Properly Rejected Under 35 U.S.C. § 103(a) Since the Combined Cited References Do Not Teach Or Suggest All Of Its Claimed Elements and Limitations

Applicants again respectfully submit that independent Claim 1 is novel and patentable over Narendran et al., Andresen et al., and IBM because, for instance, none of the references alone or in combination teach or suggest *a most recently accessed session* or *determining a most recently accessed session of a plurality of sessions on a plurality of servers*, as recited in independent Claim 1.

In Applicants' Appeal Brief, Applicants argued that contrary to the Office's assertion, no where does Andresen et al. teach or suggest *a most recently accessed session*. *See* Appeal Brief, mailed June 23, 2006, which is incorporated herein by reference. Applicants further argued that the Office appears to be asserting that the claimed reference to *a most recently accessed session* is analogous to "a most recently accessed host," as taught by Andresen et al. *Id.* In response, the Office asserts that it has not equated the claimed term "session" to a "host," rather the Office has equated the claimed term "session" to "a service provided by the host." *See* Examiner's Answer, mailed July 28, 2006 at page 11, paragraph 4. The Office further asserts that, with respect to Andresen et al., the claimed phrase *most recently accessed session* has been interpreted as:

> "... the most recently accessed host providing a service to users, i.e. a session, more particularly, **the most recently accessed 'session' meaning**

a representation of services provided by a host explicitly servicing [sic] HTTP requests to access HTML information ...." *See* Examiner's Answer, mailed July 28, 2006, at page 11, paragraph 4 (emphasis added).

However, in the specification of the present application, as acknowledged by the Examiner, the term "session" is defined as a "representation of those services **executing** on behalf of a user at any point in time." *See* Present Application at page 22:6-8 (emphasis added). Moreover, in the pending claims of the present application, *a location of a most recently accessed session* is determined, a client is redirected to a second server *having said most recently accessed session*, and the redirection is carried out so that the *second server maintains access to said accessed session*. *See* Appeal Brief, mailed June 23, 2006, Claims Appendix at page A1. In other words, the claimed *most recently accessed session* is provided such that it can be located, and access to it maintained.

Conversely, in light of the Office's newly disclosed interpretation of *most recently accessed session*, Applicants first respectfully point out that as taught by Andresen et al. itself and as recognized by those of ordinary skill, a connection (i.e. session) is utilized for processing an HTTP request to access HTML information. Applicants next respectfully point out that as taught by Andresen et al. itself and as recognized by those of ordinary skill, upon completion of the HTTP request, the connection (i.e. session) is terminated or closed and access to the terminated connection (i.e. session) is not maintained. For example, in networking a session is conventionally defined as:

"a logical connection between two nodes, generally a workstation and a server. **This connection remains in effect until the task that necessitated the session is completed** or some other constraint forces an

end to the connection." *See, e.g.*, Werner Feibel, The Network Press® Encyclopedia of Networking, Third Edition, at page 1073 (2000).

Further, as taught by Andresen et al., an HTTP request typically activates a sequence of events between a client and a server. *See* Andresen et al. at page 2, section 2, paragraph 2. First, the client determines the host name associated with the Uniform Resource Locator (URL) that corresponds to a resource that the client wishes to access. *Id.* Next, after the host name is obtained, the client then uses a local Domain Name System (DNS) server to determine the IP address of the host name. *Id.* And Andresen et al. teaches on page 1, section 1, paragraph 3, that "DNS caching enables a local DNS system [server] to cache the [host] name-to-IP address mapping, so that [the IP addresses of the] most recently accessed hosts can quickly be mapped" for subsequent requests to the same host name. After receiving the IP address, the client then sets up a Transmission Control Protocol/Internet Protocol (TCP/IP) connection to a well-known port on the server where the HTTP process is listening.[1] *See* Andresen et al. at page 2, section 2, paragraph 2. The request is then passed in through the connection. *Id.* After parsing the request, the server sends an "OK. File Found" or a "File Not Found" response code, followed by the results of the request, back to the client. *Id.* **"The connection is then closed by either the client or the server."** *Id.* (emphasis added).

Thus, in Andresen et al., each time a client initiates an HTTP request for HTML data a connection (i.e. session) associated with the request is established. After the request is processed, the connection (i.e. session) is terminated or closed and any reference to the connection (i.e. session) is lost. And assuming for purposes of

[1] *See also* Narendral et al., column 3, lines 57-64 stating "FIG. 1 shows an exemplary web server system 10 in accordance with an illustrative embodiment of the invention.... The server system 10 communicates with one or more clients over TCP/IP connections established over a network in a conventional manner."

illustration that the terminated connection (i.e. session) in Andresen et al. is the *de facto* most recently accessed session, any attempt to *determine a location of* or *maintain access to* the terminated connection (i.e. session) would most certainly be impossible.

Finally, Applicants noted in their Appeal Brief that the primary reference of Narenden et al., as acknowledged by the Examiner, does not teach or suggest *a most recently accessed session* or *determining a location of a most recently accessed session*. *See* Final Office Action, mailed August 31, 2005 at page 4, paragraph 4. Applicants further noted that, regarding IBM, the Examiner does not argue (*see* Final Office Action, mailed August 31, 2005 at page 4, paragraph 7) and no where does IBM teach or suggest, determining *a most recently accessed session*. IBM merely teaches providing synchronized redundancy of critical system components by clustering the critical system components. *See* IBM Abstract. IBM does not, in any context, teach *a most recently accessed session*. The Examiner's Answer does not provide any new assertions regarding the above-mentioned prior art of record.

Thus, for at least the foregoing reasons, Claim 1, and Claims 2-5, 7-8, and 17-27, which depend therefrom, are patentable.

B. Independent Claim 1 Is Not Properly Rejected Under 35 U.S.C. § 103(a) Since The Combined Cited Primary References Teach Away From The Claimed Invention

In light of the Office's interpretation of the claimed phrase *most recently accessed session* as "the most recently accessed 'session' meaning a representation of services provided by a host explicitly servicing [sic] HTTP requests to access HTML information"

(*see* Examiner's Answer, mailed July 28, 2006, at page 11, paragraph 4) the cited primary references actually "teach away" from the claimed invention.

"An applicant may rebut a *prima facie* case of obviousness by showing that the prior art teaches away from the claimed invention in any material respect." *See* In re Peterson, 65 USPQ2d 1379, 1384 (Fed.Cir. 2003); *see also* In re Haruna, 58 USPQ2d 1517, 1522 (Fed.Cir. 2001). As discussed above, the claimed invention provides for *determining a location of a most recently accessed session, redirecting a client to a server having the most recently accessed session,* and *maintaining access to the most recently accessed session.* However, in Andresen et al., as discussed above, a session (i.e. connection) associated with servicing an HTTP request for HTML data is terminated upon completion of the request Therefore, the session (i.e. connection) cannot be located, maintained, or otherwise accessed, because the session (i.e. connection) no longer exists. Such an inability to locate, maintain, or otherwise access a session would most certainly render the claimed invention inoperable.

Likewise, in Narendran et al., client/server connections are established over the Internet using the TCP/IP standard. *See* Narendran et al., column 3, lines 39-42. Specifically, Narendran et al. teaches that a "server system 10 communicates with one or more clients over TCP/IP connections established over a network **in a conventional manner**." *See* Narendran et al., column 3, lines 62-64 (emphasis added). "For example, **a client may generate an HTTP request for a particular service hosted by the server system 10**, such as a request for information associated with a particular web site, and **a TCP/IP connection is then established** between the client and a particular one of the document servers 16 in the server system 10." *See* Narendran et al., column 4, lines 5-10

(emphasis added). Here again, as recognized by those of ordinary skill, because Narendran et al. uses a conventional approach for processing HTTP requests, any session associated with the request is terminated or closed upon completion of the request and access to the session is lost. Moreover, the secondary reference IBM does nothing to overcome the deficiencies of the cited primary references, Andresen et al. and Narendran et al.

Thus, for at least the foregoing reasons, Claim 1, and Claims 2-5, 7-8, and 17-27 which respectively depend therefrom, are patentable.

C. Independent Claim 28 Is Not Properly Rejected Under 35 U.S.C. § 103(a) For At Least The Same Reasons Stated With Respect To Independent Claim 1

Applicants respectfully submit that independent Claim 28 is novel and patentable over Narendran et al., Andresen et al., IBM, and Dean et al. because, for instance, none of the references alone or in combination teach or suggest *a most recently accessed session* or *determining a most recently accessed session of a plurality of sessions on a plurality of servers*, as recited in independent Claim 28.

Specifically, the combined references of Narendran et al., Andresen et al., and IBM, as discussed above with respect to independent Claim 1, do not alone or in combination teach or suggest *a most recently accessed session* or *determining a most recently accessed session of a plurality of sessions on a plurality of servers*.

Additionally, Dean et al., as acknowledged by the Examiner, also does not teach or suggest *a most recently accessed session* or *determining a most recently accessed session of a plurality of sessions on a plurality of servers*. *See* Final Office Action,

mailed August 31, 2005 at pages 7-8, section 9. Rather, Dean et al. disclose a "data access and retrieval system" which maintains "caller information and security code information for enabling remote access of selection of user data and/or services to be transmitted over a communications network to a caller located at a said service terminal." *See* Dean et al. Abstract. More particularly, Dean et al. disclose a secured data access and retrieval system in which "user information may have various levels of security, and a user may wish to restrict access to such information depending upon who is requesting that information." *See* Dean et al., column 4:33-36. Dean et al. do not disclose, in any context, *a most recently accessed session*.

Moreover, *prima facie* obviousness is undermined regarding independent Claim 28 because, as discussed above, the cited primary references of Narendran et al. and Andresen et al. teach away from the claimed invention.

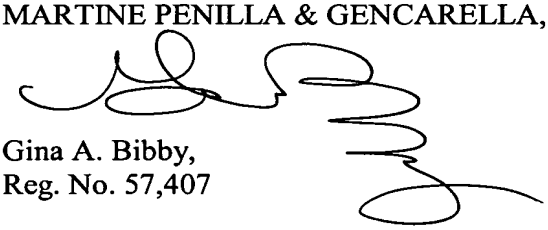
Therefore, similar remarks as those presented above regarding independent Claim 1 also apply with equal force to independent Claim 28. Accordingly, for at least the reasons stated above regarding Applicants' submission that independent Claim 1 is patentable under 35 U.S.C. § 103(a) over Narendran-Andresen in view of IBM, Claim 28 is likewise patentable under 35 U.S.C. § 103(a) over Narendran-Andresen in view of IBM in further view of Dean et al.

Thus, for at least the foregoing reasons, Claim 28 is patentable.

II. CONCLUSION

In view of the foregoing arguments distinguishing Claims 1-5, 7-8, and 17-28 over the art of record, Applicants respectfully submit that the claims are in condition for allowance, and respectfully request that the rejection of these claims be reversed.

Respectfully submitted,
MARTINE PENILLA & GENCARELLA,



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